| ľ  |   |   |  |
|----|---|---|--|
| 1  | EDMUND G. BROWN JR., Attorney General   |   |  |
| 2  | of the State of California ALFREDO TERRAZAS Service Assistant Attornov General                    |   |  |
| 3  | Senior Assistant Attorney General ARTHUR D. TAGGART, State Bar No. 083047                         |   |  |
| 4  | Supervising Deputy Attorney General<br>1300 I Street, Suite 125<br>P.O. Box 944255                |   |  |
| 5  | Sacramento, CA 94244-2550<br>Telephone: (916) 324-5339  |   |  |
| 6  | Facsimile: (916) 327-8643   |   |  |
| 7  | Attorneys for Complainant   |   |  |
| 8  |   |   |  |
| 9  | BEFORE THE BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA         |   |  |
| 10 |   |   |  |
| 11 |   |   |  |
| 12 |   |   |  |
| 13 | In the Matter of the Statement of Issues Against:   | Case No. 2009-114                         |  |
| 14 | CHRISTINA MARIE LAPINSKA<br>9708 So. Normandy   | STATEMENT OF ISSUES                       |  |
| 15 | Oak Lawn, Ilinois 60453   |   |  |
| 16 | Applicant/Respondent.   |   |  |
| 17 |   |   |  |
| 18 | Ruth Ann Terry, M.P.H., R.N. ("Com  | nplainant") alleges:                      |  |
| 19 | <u>PARTIES</u>  |   |  |
| 20 | 1. Complainant brings this Statement of Issues solely in her official capacity                    |   |  |
| 21 | as the Executive Officer of the Board of Registered   | Nursing ("Board"), Department of Consumer |  |
| 22 | Affairs.  |   |  |
| 23 | Application History   |   |  |
| 24 | 2. On or about July 2, 2008, the Board received an Application for Licensure                      |   |  |
| 25 | by Endorsement from Christina Marie Lapinska ("Respondent"). On or about June 2, 2008,            |   |  |
| 26 | Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and |   |  |
| 27 | representations in the application. The Board denied  | d the application on August 20, 2008.     |  |
| 28 | ///   |   |  |

- **STATUTORY PROVISIONS** Section 2736 of the Business and Professions Code ("Code") provides, in 3. pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code. 4. Code section 480 states, in pertinent part: A board may deny a license regulated by this code on the (a) grounds that the applicant has one of the following: Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or 8 substantially injure another; or Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation 10 of license. The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or 12 duties of the business or profession for which application is made. 13 5. Code section 2761 states, in pertinent part: 14 The board may take disciplinary action against a certified or 15 licensed nurse or deny an application for a certificate or license for any of the following: 16 Unprofessional conduct, which includes, but is not limited (a) 17 to, the following: 18 19
  - Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.
  - Code section 2762 states, in pertinent part: 6.

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing

1

2

3

4

5

6

7

9

11

20

21

22

23

24

25

26

27

28

1 | 2

///

with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

#### 7. **DRUGS**

"Dilaudid," a brand name for Hydromorphone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(K).

"Morphine (MS)" is a Schedule II controlled substance as designed by Health and Safety Code section 11055, subdivision (b)(1)(M).

## FIRST CAUSE FOR DENIAL OF APPLICATION

## (Out-of-State Discipline)

8. Respondent's application is subject to denial under Code sections 2761, subdivision (a)(4), in that in a disciplinary action before the State of Illinois, Department of Financial and Professional Regulation, Division of Professional Regulation, in the matter entitled, *Department of Financial and Professional Regulation of the State of Illinois, Complainant, v. Christina LaPinska, License No. 041269899, Respondent,* Case No. 200700715, effective February 8, 2008, Respondent's Registered Nursing License No. 041269899 was placed on probation for an indefinite period of not less than two years, with terms and conditions of probation, including not to ingest alcohol, mood or mind altering substances, submit to random urine screens, and to comply with all the conditions of an aftercare agreement. The circumstances underlying the disciplinary action are that during the month of December 2006, Respondent diverted Morphine and Dilaudid, both controlled substances, from her hospital employer for her own personal use. A copy of the State of Illinois Consent Order is attached hereto as **Exhibit A** and is incorporated herein.

## SECOND CAUSE FOR DENIAL OF APPLICATION

#### (Dishonesty, Fraud, or Deceit)

9. Respondent's application is subject to denial under Code sections 2736, and 480, subdivision (a)(2), in that Respondent committed acts involving dishonesty, fraud or deceit with the intent to substantially benefit herself, as set forth in paragraph 8, above.

#### THIRD CAUSE FOR DENIAL OF APPLICATION

(Done Any Acts if Committed by a Licentiate)

10. Respondent's application is subject to denial under Code sections 2736 and 480, subdivision (a)(3), in that she committed acts that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of a license, pursuant to Code sections 2761, subdivision (a), and 2762, subdivision (a), as set forth in paragraph 8, above.

#### **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Denying the application of Christina Marie Lapinska for a license; and
- 2. Taking such other and further action as deemed necessary and proper.

DATED: 11124108

RUTH ANN TERRY, M.P.H., R.N Executive Officer Board of Registered Nursing Department of Consumer Affairs State of California Complainant

SA2008305156 30582306.wpd

## **EXHIBIT A**State of Illinois Consent Order

# STATE OF ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION DIVISION OF PROFESSIONAL REGULATION

| DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION of the State of Illinois, v. | Complainant, | )<br>)<br>)<br>) No. | 200700715 |
|--|--------------|----------------------|-----------|
| Christina LaPinska,<br>License No. 041269899,                                    | Respondent   | )                    |           |

## CONSENT ORDER

The Department of Professional Regulation by Neal A. Draznin, one of its attorneys, and Christina LaPinska, Respondent, hereby agree to the following:

## STIPULATIONS

Christina LaPinska is licensed as a Registered Professional Nurse in the State of Illinois, holding license No. 041269899. Said license is presently in ACTIVE status. At all times material to the matter set forth in this Consent Order, the Department of Financial and Professional Regulation, Division of Professional Regulation of the State of Illinois (hereinafter the "Department"), had jurisdiction over the subject matter and parties herein.

The Department alleges that during the month of December 2006, the Respondent diverted Morphine and Dilaudid from her hospital employer for her personal use.

The allegations set forth above, if proven to be true, would constitute grounds for suspending, revoking, or otherwise disciplining Respondent's license as a registered professional nurse on the authority of 225 allinois Compiled Statutes 65/10-45(b)(7) and 65/10-45(b)(9).

11:57

As a result of the foregoing, an Informal Disciplinary Conference was held on September 20, 2007 at the offices of the Department at 100 West Randolph, Chicago. Nursing Board member, Ellen Davel was present as was the Respondent. Neal A. Draznin appeared as counsel for the Department.

Respondent has been advised of the right to have the pending allegation(s) reduced to written charges, the right to counsel, the right to a hearing, the right to contest any charges brought, and the right to administrative review of any Order resulting from a hearing. Respondent knowingly waives each of these rights, as well as any right to administrative review of this Consent Order. Respondent has freely and willfully entered into this Consent Order without any threat or coercion by any person. Respondent has not relied on any statements or promises made by or on behalf of the Department other than those specifically set forth in writing herein.

Respondent and the Department have agreed, in order to resolve this matter, that Respondent be permitted to enter into a Consent Order with the Department, providing for the imposition of disciplinary measures which are fair and equitable in the circumstances and which are consistent with the best interests of the people of the State of Illinois.

#### CONDITIONS

WHEREFORE, the Department, through Neal A. Draznin, its attorney, and Christina LaPinska, agree as follows:

A. Effective upon the Director of the Division of Professional Regulation's approving and signing this

Consent Order, Respondent's Registered Professional Nurse's License, License No. 041269899, shall be placed on PROBATION for an indefinite period of not less than two (2) years.

- B. During the Probationary period, Respondent shall adhere to the following:
  - Respondent shall not ingest alcohol;
  - 2. Respondent shall not ingest any mood or mind altering substances except those therapeutically prescribed by treating prescriber whose patient records reflect that the treating prescriber knew of Respondent's disease and ongoing recovery;
  - 3. Respondent shall provide quarterly random urine screens during the Probationary period. Failure, refusal to give the screens, dilution or a positive result shall be a violation of Probation;
  - 4. Respondent shall provide the Department with quarterly reports which include:
  - a. current residential address and telephone number where he can be reached;
  - b. if working as a nurse, Respondent shall provide a copy of any performance evaluation completed by her employer within the prior quarter. Respondent, shall at the beginning of Probation, provide the Department with

- objective documentation as to the frequency of employee performance evaluations;
- c. a description of job duties, responsibilities and name of immediate supervisor, if employed in a nursing related environment;
- d. a copy of all incident reports within the prior quarter.
- 5. Respondent shall notify the Department's Nurse Investigative Supervisor in writing of any change in employment and home address and telephone within five (5) days;
- 6. The Respondent will provide the Department with:
  - a. current residential address and telephone number where he can reached;
  - b. a copy of any performance evaluation completed by her employer. Respondent shall, at the beginning of Probation, provide the Department with objective documentation as to the frequency of employee performance evaluations;
  - c. a description of job duties, responsibilities and name of immediate supervisor, if employed in

- a nursing related environment; a copy of all incident reports within the prior quarter;
- Respondent shall enter into and comply with all C. substantive conditions of an Aftercare Agreement with Illinois Professionals Health Program, unless another Aftercare Program is pre-approved in writing by one of the Department's prosecutions or probation staff. Conditions in the Aftercare Agreement relating to the payment of fees to the Illinois Professionals Health Program are not deemed substantive conditions. Respondent shall cause a copy of her current Aftercare Agreement to be submitted to the Department's Nursing Act Coordinator within ten (10) days of execution of this agreement by the Board. Respondent shall cause copies of any amendments to the aftercare Agreement to Nursing Act Department's the submitted to be Coordinator within three (3) days of implementation.
  - D. Respondent shall routinely attend approved self-help group meetings pursuant to the terms of the Aftercare Agreement.
  - E. Respondent agrees that any positive drug test subsequent to entry of this Consent Order permits the Department of Professional Regulation to issue an Order mandating the automatic, indefinite and immediate suspension of the Respondent's nursing license for a minimum of twelve (12) months. This

suspension shall not preclude the Department from taking any other disciplinary or other action it deems appropriate. In the event that Respondent contests in writing (by filing an appropriate motion with the Department) the factual basis underlying the suspension, then Respondent shall be afforded a hearing on the merits within thirty (30) days from the filing thereof.

- Respondent agrees that any violation of paragraph B, C, D, or E of this Consent Order permits the Director of the Division of Professional Regulation to issue forthwith mandating the automatic, Order an indefinite and immediate suspension of Respondent's license as a Registered Professional Nurse for a minimum period of six (6) months. This suspension shall not preclude the Department from taking any disciplinary or other action it appropriate. In the event Respondent contests in writing (by the filing of an appropriate petition with the Department) the factual basis underlying said suspension within thirty (30) days of the imposition thereof, then Respondent shall be afforded a hearing on the merits within thirty (30) days from filing of said petition.
  - G. Any violation by the Respondent of the terms and conditions of this Consent Order shall be grounds for the Department to immediately file a Complaint to

revoke the Respondent's license to practice as a Registered Professional Nurse in the State of Illinois.

H. All reports required to be submitted to the Department pursuant to this Consent Order shall be sent to:

Illinois Department of Financial and Professional Regulation
Division of Professional Regulation

Attn: Probation Compliance Unit 100 West Randolph Street, Suite 9-300 Chicago, Illinois 60601

I. This Consent Order shall become effective upon the signing and approval by the Director of the

Department.

| / /                              | MILTON   |
|----------------------------------|--|
| 01/18/08                         |  |
| DATE                             | Neal A. Draznin<br>Attorney for the Department     |
|                                  | Attorney for the beparement                        |
| 1/3/2008                         | Shewting openida                                   |
| DATE                             | Christina LaPinska                                 |
| <i>2</i> . • 2 <i>2</i>          | Respondent   |
| 1/11/08                          | I lio Santingo                                     |
| DATE                             | Ollio Santiago                                     |
| 17:11 11                         | Chair, Illinois Board of Nursing                   |
| The foregoing Consent DATED THIS | order is approved in full.  day of Solnuary, 2008. |
|                                  | DEPARTMENT OF FINANCIAL AND PROFESSIONAL           |
|                                  | PECHIATION DEPARTMENT OF PROFESSIONAL              |
|                                  | REGULATION of the State of Illinois; DEAN          |
|                                  | MARTINEZ, SECRETARY                                |
|                                  | 1/1/2 STINUTERINE                                  |
|                                  | DANTEL EZ BLUTHARDT                                |
|                                  | DIRECTOR   |
|                                  |  |
| REF: License No. 041269899       | 9, Case No. 200700715                              |